

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

ORDER

This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's application for Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI"). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation (R & R) on April 19, 2018, recommending that the decision of the Commissioner be reversed and remanded to the agency because of the failure of the Administrative Law Judge ("ALJ") to (1) address and explain in the Plaintiff's credibility assessment the highly abnormal MRI's of the cervical and lumbar spine, which included cord compression (Tr. 323-24, 325-26); (2) evaluate Plaintiff's claim of poverty as an explanation of his lack of medical treatment; (3) make the necessary findings to support the dubious contention that Plaintiff's decision to smoke cigarettes caused him to lack the necessary financial resources to seek medical treatment for his severe spinal cord condition; and (4) reconcile Dr. Kolehma's 2013 consulting evaluation of Plaintiff with his 2011

evaluation, where he expressed concern that Plaintiff's cervical cord compression could result in irreversible spinal cord damage (Tr. 417-18). (Dkt. No. 23 at 19-25). The Commissioner has advised the Court that she does not intend to file objections to the R & R. (Dkt. No. 25).

The Court has reviewed the R & R and the record evidence and finds that the Magistrate Judge has ably addressed the factual and legal issues in this matter. Therefore, the Court **ADOPTS** the Report and Recommendation as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner for further proceedings consistent with this order. In light of the protracted administrative processing of the disability claim, now exceeding 5 years, the Commissioner is directed to give priority to the scheduling of any rehearing, issuing of a new decision, and reviewing of any adverse decision by the Appeals Council.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Judge

Charleston, South Carolina
May 2, 2018